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in his official capacity as Somerset County Clerk

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ANDY KIM, in his personal capacity as a candidate for U.S. Senate, ANDY KIM FOR NEW JERSEY, SARAH SCHOENGOOD, SARAH FOR NEW JERSEY, CAROLYN RUSH and CAROLYN RUSH FOR CONGRESS;

Plaintiffs,

v.

CHRISTINE GIORDANO HANLON, in her official capacity as Monmouth County Clerk; SCOTT M. COLABELLA, in his official capacity as Ocean County Clerk; PAULA SOLLAMI COVELLO, in her official capacity as Mercer County Clerk; MARY H. MELFI, in her capacity as Hunterdon County Clerk; STEVE PETER, in his official capacity as Somerset County Clerk; HOLLY MACKEY, in her official capacity as Warren County Clerk; NANCY J. PINKIN, in her official capacity as Middlesex County Clerk; JOSEPH GIRALO, in his official capacity as Atlantic County Clerk; JOHN S. HOGAN, in his official capacity as Bergen County Clerk; JOANNE SCHWARTZ, in her official capacity as Burlington County Clerk; JOSEPH RIPA, in his official capacity as Camden County Clerk; RITA M. ROTHBERG, in her official capacity as Cape May County Clerk; CELESTE M. RILEY, in

CIVIL ACTION NO.: 3:24-cv-01098
(ZNQ)(TJB)

**CERTIFICATION OF STEVE PETER, IN
HIS OFFICIAL CAPACITY AS
SOMERSET COUNTY CLERK**

her official capacity as Cumberland County Clerk; CHRISTOPHER J. DURKIN, in his official capacity as Essex County Clerk; JAMES N. HOGAN, in his official capacity as Gloucester County Clerk; E. JUNIOR MALDONADO, in his official capacity as Hudson County Clerk; ANN F. GROSSI, in her official capacity as Morris County Clerk; DANIELLE IRELAND-IMHOF, in her official capacity as Passaic County Clerk; and JOANNE RAJOPPI, in her official capacity as Union County Clerk;

Defendants.

- and –

DALE A. CROSS, in his official capacity as Salem County Clerk; and JEFF PARROTT, in his official capacity as Sussex County Clerk; TAHESHA WAY, Esq., in her official capacity as Secretary of State for New Jersey.

As Interested Parties.

I, STEVE PETER, SOMERSET COUNTY CLERK, upon my oath do swear:

1. I submit this certification in my official capacity as Somerset County Clerk, in opposition to Plaintiffs Andy Kim, in his personal capacity as a candidate for U.S. Senate (“Mr. Kim”); Andy Kim for New Jersey; Sarah Schoengood (“Ms. Schoengood”); Sarah for New Jersey; Carolyn Rush (“Rush”) and Carolyn Rush for Congress’ (collectively, “Plaintiffs”) Motion for a Preliminary Injunction to materially overhaul the ballot structure, voting machine programming, and ballot printers on the eve of the 2024 primary elections. I am familiar with the facts set forth below.

BACKGROUND

2. I am a duly elected constitutional officer of Somerset County pursuant to Article 7, § 2, ¶2 of the New Jersey Constitution.

3. The duties of my office are enumerated in the duly enacted New Jersey Statutes, N.J.S.A. 40A:9-63 to N.J.S.A. 40A:9-77.2.

4. I received a bachelor's degree from the University of Illinois at Urbana-Champaign, with a major in the field of Linguistics and Germanic Languages and Literatures.

5. I received a master's degree in the field of Linguistics from Harvard University

6. I am a resident of Somerville, New Jersey.

7. I served as Deputy County Clerk of Champaign County, Illinois from 1987 to 1991.

8. I served as President and a member of the Somerville Borough Council from 2016 to 2018.

9. Since 2018, I have served as Somerset County Clerk.

10. I served as the Section Chief of Clerks and Recorders of the Constitutional Officers Association of New Jersey from 2019 to 2022.

11. I served as Secretary of the Constitutional Officers Association of New Jersey from 2022 to 2023. I presently serve as Vice President of this organization.

12. Through these roles, I have a firsthand knowledge of the many factors involved in administering elections and the technical challenges associated with making alterations to the ballots.

***THE ROLE OF THE COUNTY CLERKS IN
ADMINISTERING ELECTIONS AND THE HARM THE
VOTERS OF SOMERSET COUNTY FACE IF A
PRELIMINARY INJUNCTION IS GRANTED***

13. The main significant difficulty our offices would face if the Court grants Plaintiffs' request for a preliminary injunction is the extremely tight timeline for preparation of ballots, which is a challenge using the system we have been using for decades (the county line), let alone having to learn a new setup while complying with the deadlines.

14. The first deadline at issue is March 25, 2024 at 4:00 p.m. Pursuant to N.J.S.A. 19:23-14, before 4:00 p.m. on or before the 71st day prior to the primary election, county candidates submit to the Clerk their nominating petitions. In advance of this March 25 deadline, the candidates must coordinate their associations on the ballot and slogans to submit pursuant to N.J.S.A. 19:23-14.

15. Between March 25 and April 5, candidates must submit the name of their campaign manager to empower that person to determine which candidates will appear on their column in the ballot. If any races are contested, the Clerk must coordinate with the campaign manager to determine which candidates will be associated with others on the ballot.

16. At this point, the County Clerk begins the ballot layout. This is started before the drawing to ensure that all of the offices, candidate names and translations are correct before being placed in the appropriate space on the ballot after the drawing. Somerset County produces ballots in two languages, English and Spanish. Other counties may be required to add additional languages to their ballots, depending on their population.

17. While these functions will need to be carried out regardless of whether an injunction is entered, it is one of many steps in the election process that must be executed in a tight timeframe.

The longer the ballot preparation process is delayed due to Plaintiffs' litigation, the less time there is to engage in these processes and correct any issues with the translations.

18. Pursuant to N.J.S.A. 19:23-24, at 3:00 p.m. on the 61st day before the primary election, the County Clerks and municipal clerks conduct the drawings for ballot positions. For the 2024 primary, the statutory deadline for drawing falls on April 4, 2024. In advance of this date, my office must prepare slips with the names of candidates and the capsules to place the slips in. There are 319 contests in this election in Somerset County. At a minimum, there will be 638 names to put on the ballot if there are no contested races. There are likely to be many contested races with multiple candidates, which will significantly increase the number of names to be drawn and placed on the ballots.

19. In 2023, I drew for 57 names of candidates across 26 contests in Somerset County, which took approximately 30 minutes.

20. If the preliminary injunction is granted, ballot draws will now become a multi-hour affair, cutting into the 24-hour clock that is already ticking for ballot preparation pursuant to N.J.S.A. 19:23-24 (April 4th drawing date) and N.J.S.A. 19:14-1 (April 5th ballot submission to printer). This is because if candidates are no longer able to associate as a block consistent with N.J.S.A. 19:49-2 and be drawn with a single capsule, each candidate for each race must get a separate drawing.

21. The next day is the deadline for preparation of the official primary election ballot for printing pursuant to N.J.S.A. 19:14-1 (60 days before the primary election). The statute expressly requires that "Every county clerk shall have ready for the printer on or before the 60th day prior to the primary election . . . a copy of the contents of official ballots as hereinafter required to be printed for use at such election." There is thus a 24-hour clock between the drawing

for ballot position on April 4th and preparation of the ballots for submission to the printer on April 5th.

22. Typically, I personally prepare the layouts for the ballots between the drawing and the submission to the printer. Some county clerks do the same, while other county clerks utilize vendors to accomplish this function. If the preliminary injunction is granted, given the departure from the usual process and the significant additional demands resulting from the drawing, I will likely need to utilize a vendor to assist with the ballot layout, which will incur additional costs and come with its own risk of human error.

23. This is but one of many points in the process where errors may occur as a result of the novelty of the procedure for New Jersey clerks if Plaintiffs' eleventh-hour request for injunctive relief is granted.

24. April 16th is the date of the School Board election in some counties in New Jersey.

25. Pursuant to N.J.S.A. 19:63-5 and -9, the mailing of mail-in ballots commences 45 days before the primary election, which falls on April 20th this year. This includes the deadline to send ballots according to the Uniformed and Overseas Voters Absentee Voting Act ("UOCAVA"), a federal law that protects the voting rights of military members, public servants and their families serving our nation's interests abroad.

26. By April 26, 2024, the programming and proofing of machine ballots for each district must be complete to meet subsequent deadlines. If a preliminary injunction is granted, this voting ballot machine process will take longer, leaving even less time to program the machine ballots, as explained further in the next paragraph.

27. For each of the 267 election districts in Somerset County, I must perform various functions to ensure the integrity of the election and protect the franchise of New Jersey voters. For example:

- Proofread the draft ballots for substantive and technical accuracy;
- Print test deck and deliver to the voting machine vendor (for Somerset County, ES&S);
- ES&S then performs tests to ensure proper function of voting machine and to detect and correct any errors;
- The ballot printing then begins;
- County Clerk staff prepares mailing: address envelopes, insert ballots and other materials and delivers to USPS for delivery.

28. The County Clerks are responsible for overseeing the aforementioned process in their respective counties. Each county, is served by one of only two vendors: ES&S or Dominion.

29. Notably, Somerset is one of fifteen (15) counties that utilize ES&S for the foregoing services.

30. Thus, my office would need to know whether ES&S, our current vendor, is able to accommodate the changes Plaintiffs seek in time for the 2024 primary elections. ES&S has indicated that it cannot implement the changes necessary to comply with the last-minute overhaul of our elections that Plaintiffs request in time for New Jersey's 2024 primary elections. *See* ECF Doc. No. 46.

31. The remaining six (6) counties utilize Dominion, which is the only other vendor capable of executing these necessary tasks.

32. We simply do not know if it is feasible for Somerset County to use Dominion in the short time remaining to administer the rapidly approaching primary election.

33. Even if Dominion were able to accommodate the requested changes, my office would need to contract with them and procure the necessary funds.

34. There may be additional unforeseen challenges in any effort to switch to Dominion, particularly at this late stage in the election cycle.

35. From April 26 to May 22, county clerks' offices and vendors conduct testing. Each district's machine data is downloaded onto a thumb drive. Each thumb drive is then uploaded onto each voting machine. Somerset County has over 300 voting machines that will need to undergo this process. If errors are detected, the vendor costs would likely increase. The county would be required to fund these costs.

36. From May 13 to 16, sample ballots are proofread and the printers prepare for mailing.

37. On May 14, non-partisan elections are held in some counties.

38. On or around May 22, 2024 an inspection of the voting machines is conducted pursuant to N.J.S.A. 19:23-34. If there are substantial errors detected as a result of the requested drastic overhaul of every step of the foregoing processes, additional time will be necessary to remedy any issues with the novel systems, if they can be remedied at all.

39. On May 22, 2024 (on or before 12 noon on Wednesday preceding the start of the early voting period for the primary election), sample ballots of the primary election must be mailed to the voters pursuant to N.J.S.A. 19:23-34.

40. In any Presidential election year, we historically receive a high volume of calls from voters concerning the ballot format and instructions to ensure their vote is counted.

41. If a preliminary injunction requiring the drastic changes requested in a short timeframe, based on my extensive experience in election administration, I expect that a new design will prompt many new calls from voters and declarations of conspiracy.

42. While all of this will present significant difficulties and disruption to the Clerk's offices (and I note that Clerks have duties outside of elections that must be fulfilled while we prepare ballots), we can do our best to comply. What we cannot do, however, is ensure a lack of errors because of the totality of new processes required, new designs to test, and a new format to explain to the voters.

43. In addition to all stages in the process where errors can occur and would need to be addressed in advance of rapidly approaching deadlines, there may be many unforeseen issues we have not anticipated.

44. If there are errors in any ballot, many of the processes involved must be re-run and re-tested to ensure there are no other errors, until every ballot and machine is free of errors.

45. Any errors, no matter how minor, caused by this rapid switch may call into question the integrity of the election.

46. If the voting machines cannot ultimately pass the required tests and certifications in time, the only remaining option is to utilize emergency ballots. This is not feasible, as the preparation of emergency ballots involves the previously described testing, printing, and challenges to create emergency ballots using a completely novel format.

47. In that scenario, there would be significant additional time and expense associated with preparing huge volumes of emergency ballots and the logistical challenge of administering the election on that basis.

48. The use of paper emergency ballots also requires significant time for the counting of the ballots, which could be subject to human error given the scale of an election without voting machines.

49. The “Track My Ballot” website normally permits New Jersey voters to verify that their vote is counted shortly after an election. If all voters are required to use emergency ballots, their ability to check on the status of their vote will be significantly delayed.

50. Ultimately, even if an election using emergency paper ballots could be conducted (which is not feasible because it requires nearly every step of the foregoing processes to be error free), this would likely have an impact on voter confidence because of the resultant risk of error.

51. The New Jersey Division of Elections must certify state-wide totals for federal and state election contests. Any delays in certification by the County Clerks will in turn affect their certification.

52. Depending on the severity of the issues and errors resulting from granting Plaintiffs’ request for relief, this could impact whether New Jersey’s vote is certified in time for the dates imposed by the U.S. Constitution with respect to the 2024 Presidential Election.

I certify that the foregoing statements are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Dated: March 6, 2024

A handwritten signature in black ink, appearing to read 'SP' with a stylized flourish underneath.

STEVE PETER, *in his official capacity as*
SOMERSET COUNTY CLERK